

Message Text

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P 182137Z SEP 74

FM SECSTATE WASHDC

TO AMEMBASSY PRETORIA PRIORITY

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E.O. 11652:N/A

TAGS: EIND, SF

SUBJECT: MOTION PICTURES - SOUTH AFRICAN REQUIREMENT TO
PROVE US NATIONALITY AND COPYRIGHT REGISTRATION OF COPY-
RIGHT OWNERS

1. SIDNEY SCHREIBER, GENERAL ATTORNEY, MOTION PICTURE
ASSOCIATION OF AMERICA (MPEAA) INFORMED DEPARTMENT
(EB/CBA/BP) AND US COPYRIGHT OFFICE THAT SATBEL (PTY) LTD.,
STER CENTRE, 174 MAIN STREET, JOHANNESBURG, HAS UNDERTAKEN
A COPYRIGHT TEST-CASE ON BEHALF OF US COPYRIGHT OWNERS TO
HAVE ATTORNEY GENERAL OF SOUTH AFRICA PROSECUTE RATHER
EXTENSIVE COMMERCE IN UNAUTHORIZED PRINTS OF US MOTION
PICTURES UNDER PROCLAMATION OF EXTENSION OF COPYRIGHT TO
UNITED STATES ISSUED BY REPUBLIC OF SOUTH AFRICA ON
SEPTEMBER 24, 1973. PREPARATORY EXAMINATION OF CASE WAS
TO BE COMPLETED AUGUST 16, 1974, AND SENT TO ATTORNEY
GENERAL OF SOUTH AFRICA FOR REFERRAL TO TRIAL TO SUPREME
COURT. SATBEL ADVISED SCHREIBER THAT PRESENT EVIDENCE
INCOMPLETE TO CONTINUE CASE ANY FURTHER AND UNLESS
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ADDITIONAL EVIDENCE PROVIDED ATTORNEY GENERAL BY COMPETENT

REPRESENTATIVES WHO WERE PRESENT IN SOUTH AFRICA FROM US COPYRIGHT OFFICE AND SEVERAL STATES IN WHICH CORPORATE US COPYRIGHT OWNERS WERE INCORPORATED TO PROVE US COPYRIGHT REGISTRATION AND US NATIONALITY OF COPYRIGHT OWNERS, ATTORNEY GENERAL WOULD DECLINE TO PROSECUTE. EMBASSY FYI: SATBEL SEEMS TO BE UNDER IMPRESSION THERE IS "FEDERAL

REGISTRAR OF COMPANIES" TO CERTIFY WHETHER COMPANY IS REGISTERED IN U.S..REPRESENTATIVES FROM US WOULD ALSO BE REQUIRED TO PROVE THAT PERIOD OF US COPYRIGHT IS NOT IN EXCESS OF THAT IN SOUTH AFRICA AS SET OUT IN PROCLAMATION NUMBER R. 231,1973: AND THAT MAKER WAS A QUALIFIED PERSON IN TERMS OF THIS PROCLAMATION.

2. DEPARTMENT AND COPYRIGHT OFFICE BELIEVE REQUEST BY ATTORNEY GENERAL TO HAVE REPRESENTATIVES FROM COPYRIGHT OFFICE AND STATES IN WHICH CORPORATE US COPYRIGHT OWNERS INCORPORATED APPEAR IN SOUTH AFRICAN COURT IS UNREASONABLE, IMPRACTICAL AND PROBABLY UNNECESSARY.

3. REGARDING REQUIREMENT TO VERIFY THAT CERTAIN US FILMS COPYRIGHTED, US COPYRIGHT OFFICE EXPLAINED THAT UNDER US LAW, CLAIMS TO COPYRIGHT REGISTERED WITH COPYRIGHT OFFICE AFTER PUBLICATION WITH NOTICE OF COPYRIGHT. COPYRIGHT OFFICE ISSUES A CERTIFICATE OF REGISTRATION TO EACH CLAIMANT WHICH, BY STATUTE, IS ADMISSIBLE IN US COURTS AS PRIMA FACIE EVIDENCE OF FACTS STATED IN CERTIFICATE. UPON REQUEST, COPYRIGHT OFFICE WILL CERTIFY THAT CLAIM TO COPYRIGHT HAS BEEN DULY REGISTERED IN ACCORDANCE WITH US LAW AND WILL FURNISH A COPY. COPYRIGHT OFFICE PREPARES COPY OF REGISTRATION RECORD, ATTACHES A STATEMENT ATTESTING THAT DOCUMENT IS TRUE COPY OF RECORD, AND AFFIXES OFFICIAL COPYRIGHT OFFICE SEAL. IN CASE OF COPYRIGHT LITIGATION IN A FOREIGN COUNTRY, LOCAL COURTS WILL GENERALLY ACCEPT IN EVIDENCE CERTIFIED COPIES OF COPYRIGHT OFFICE RECORDS PRODUCED IN COURSE OF ITS OFFICIAL DUTIES. ACCEPTED PROCEDURE IS THAT COPYRIGHT OFFICE PREPARES RELEVANT CERTIFIED COPIES OF ITS RECORDS AND TRANSMITS SAME TO DEPARTMENT OF STATE, WHICH THEN TRANSMITS CERTIFICATIONS TO US EMBASSY IN COUNTRY CONCERNED. US EMBASSY DELIVERS LIMITED OFFICIAL USE

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DOCUMENTS TO FOREIGN MINISTRY OF THAT COUNTRY. ALTHOUGH USUALLY NOT NECESSARY, WE PLAN TO HAVE ADDITIONAL CERTIFICATION BY DEPARTMENT OF STATE THAT DOCUMENTS WERE RECEIVED FROM COPYRIGHT OFFICE AND THAT DEPARTMENT HAS AUTHENTICATED DOCUMENTS. EMBASSY FYI: MPEAA IS SENDING US COPYRIGHT OFFICE LIST OF TITLES AND REGISTRATION NUMBERS OF APPLICABLE FILMS WHICH WILL BE CERTIFIED AND DOCUMENTED AS DESCRIBED. END FYI

4. REGARDING PROOF OF INCORPORATION, MPEAA WILL OBTAIN THE NECESSARY DOCUMENTS FROM RELEVANT STATE AUTHORITIES AND IF HELPFUL DOCUMENTS MAY BE AUTHENTICATED WITH DEPARTMENT OF STATE SEAL.

5. ACTION REQUESTED: DEPARTMENT WOULD APPRECIATE EMBASSY DISCUSS MATTER URGENTLY WITH LOCAL COUNSEL FOR SATBEL

(PIERRE KRIEL) AND WITH OFFICE OF SOUTH AFRICAN ATTORNEY GENERAL AS TO WHETHER DOCUMENTATION WILL SATISFY REQUIREMENTS TO CONTINUE THIS CASE AND ADVISE ASAP. ATTN: EB/CBA/BP. KISSINGER

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